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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/733,455	12/08/2000	Theodore V. Benderev	BENDE-008B	2632

7590 04/14/2005

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EXAMINER

REIP, DAVID OWEN

ART UNIT PAPER NUMBER

3731

DATE MAILED: 04/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/733,455

Applicant(s)

BENDEREV ET AL.

Examiner

David O. Reip

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 February 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 6-38 is/are pending in the application.
- 4a) Of the above claim(s) 6-18, 21-34 and 36-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19, 20 and 35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 April 2001 and 17 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/4/01, 2/20/04, 2/23/04, 3/9/04,
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Claims 6-18, 21-34, and 36-38 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected species of invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 2/7/05.

### ***Claim Objections***

Claim 20 is objected to because of the following informalities: in line 2, the limitation "piton" lacks antecedent basis in claim 1. Further, in line 3, the limitation "line" lacks antecedent basis in claim 1. Suggest amending the word "piton" to --anchor-- and the word "line" to --cord--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 19, 20, and 35 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Towfigh (DE 32 27 984 A1). Figs. 1-3 of Towfigh clearly show a system and method of securing a suture within a selected target site of soft tissue having all the limitations as recited in claims 19, 20, and 35, including: a suture cord 1; a plurality of

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anchor members 4 disposed linearly upon the suture, each of said plurality of anchor members comprising generally V-shaped prongs 9.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

U.S. Pat. No. 6,241,747 to Ruff

U.S. Pat. No. 6,083,244 to Lubbers et al

U.S. Pat. No. 5,931,855 to Buncke

U.S. Pat. No. 5,584,859 to Brotz

U.S. Pat. No. 5,425,747 to Brotz

U.S. Pat. No. 5,222,976 to Yoon

U.S. Pat. No. 5,123,913 Wilk et al.

U.S. Pat. No. 4,198,734 to Brumlik

U.S. Pat. No. 3,981,051 to Brumlik

U.S. Pat. No. 3,123,077 to Alcamo

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David O. Reip whose telephone number is 571-272-4702. The examiner can normally be reached on 7 A.M.- 4 P.M. Mon-Thu and every other Fri..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David O. Reip  
Primary Examiner  
AU 3731